

1 Michael D. Gutierrez #V68887
2 P.V.S.P A4-141
3 P. O. Box 8501
4 Coalinga, CA 93210

5 Petitioner in Propria Persona

FILED

2008 JUL -8 A 7:51

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 *C/PMW*
12 MICHAEL DAVID GUTIERREZ,

13 Petitioner in Propria Persona,

14 vs.

15 JAMES A. YATES, WARDEN,
16 DEPARTMENT OF CORRECTIONS,
17 PLEASANT VALLEY STATE
18 PRISON,

19 Defendants.

CASE NO. 5:07-CV-03668-RMW

**PETITIONER'S NOTICE OF MOTION
AND MOTION FOR PERMISSION TO
ELECTRONICALLY FILE DOCUMENTS**

[Filed Concurrently with Memorandum of
Points and Authorities; Declaration of Michael
D. Gutierrez; Declaration of Roberts Mendosa;
and Proposed Order]

Date: July 14, 2007
Time: 9:00 a.m.
Judge: Hon. Ronald M. Whyte
CourtRoom: 6

21 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

22 **PETITIONER MICHAEL DAVID GUTIERREZ** hereby moves this Court
23 pursuant to Federal Rules of Civil Procedure 7(b) and provides all parties with notice that
24 on July 14, 2008 at 9:00 a.m., in Courtroom 6 of the United States District Court, located
25 at 280 South 1st Street, San Jose, CA 95113, Petitioner will seek an order authorizing him
26 to electronically file ("e-file") documents in the instant matter in accordance with the
27 Northern District's General Order 45, Local Rule 5-4 and the Federal Rules of Civil
28 Procedure 5(e).

ORIGINAL

1 Petitioner requests that he be granted permission to e-file documents in the instant
2 action so that he may more effectively and economically pursue claims for relief sought in
3 Petitioner's Writ of Habeas Corpus filed on July 17, 2007. Petitioner asserts that his right
4 to pursue his claim for relief will be adversely affected should the Court deny permission
5 to electronically file documents in the instant action.

6 Petitioner contents that he is capable of complying with all requirements necessary
7 for the electronic filing and retrieving of Court records and seeks the Court's permission
8 to do so.

9 This Motion is based and supported by Petitioner's Motion and Memorandum of
10 Points and Authorities and the Declarations of Michael David Gutierrez and Robert
11 Mendosa filed concurrently herewith and all pleadings and documents on file in this
12 action, and such other and further arguments and evidence as may be presented before or
13 at the hearing in this matter.

14 DATED: June 23, 2008

By:


MICHAEL DAVID GUTIERREZ
Petitioner in Propria Persona

DECLARATION OF SERVICE BY U. S. MAIL

Gutierrez v. Yates, Case No. C 07-3668 RMW (PR)

I declare:

I am presently incarcerated at Pleasant Valley State Prison. I am over the age of 18, and a party to the within action. My address is: A-4-141, Box, 8501, Coalinga, California.

On June 23, 2008, I served the foregoing document described as:

**PETITIONER'S NOTICE OF MOTION AND MOTION FOR
PERMISSION TO ELECTRONICALLY FILE DOCUMENTS**

on the interested parties by U. S. Mail a true copy as follows:

EDMUND G. BROWN JR., Esq.
Attorney General of the State of
California

Attorneys for Respondent

DANE R. GILLETTE., Esq.
GERALD A. ENGLER., Esq.
GREGORY A. OTT., Esq.
ALLEN R. CROWN., Esq.
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5847
Fax: (415) 703-1234

☒ **VIA U.S. MAIL:** 

On June 23, 2008, at , California, I deposited the above described document, with the U.S. postal service with postage thereon fully prepaid and addressed to the parties listed above.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and was executed on June 23, 2008 at Coalinga, California.

Michael D. Gutierrez
Type or Print Name


Signature